

Montpelier Development Review Board
April 6, 2009
City Council Chambers, City Hall

Subject to Review and Approval

Present: Philip Zalinger, Chair; Kevin O'Connell, Vice-Chair; Alan Blakeman, Daniel Richardson, Jack Lindley, Jeremy Hoff and Roger Cranse; also Kenneth Matzner, Alternate.
Staff: Clancy DeSmet, Planning and Zoning Administrator.

Call to Order:

Philip Zalinger, Chair, called the April 6, 2009 meeting of the Montpelier Development Review Board to order at 7:00 P.M.

Review of March 16, 2009 Minutes:

Upon motion by Mr. Lindley and Mr. Blakeman the Minutes of the March 16, 2009 Development Review Board were adopted as printed.

- I. 28 State Street – CB-I/DCD/FP**
Applicant: David Parker/DCP One, Inc. (Subway)
Owner: Jeff Jacobs
64" x 96" deck at rear of building.

Mr. Zalinger said the Design Review Committee reviews the applications placed on the Consent Agenda on a preliminary basis and makes recommendations to the DRB. The Design Review Committee recommended approval with the following optional changes:

- ✓ Access stairs may extend the full length of the service entrance deck with either two (2) or three (3) sets of steel rails to satisfy code requirements.
- ✓ Deck flooring may be a combination of either pressure-treated wood or steel grating over the area of the location of the existing air conditioning compressor unit.
- ✓ An attached or detached platform for refrigeration compressors may be constructed out of the same materials (see above).
- ✓ A downward facing motion detector light fixture (65 watt maximum) may be installed in the rear over the door.
- ✓ The large existing window on the right side of the doorway may be replaced with a single 4 over 4 or 2 over 2 wood or wooden clad window, but it must match the existing window.

Mr. Zalinger asked Mr. Parker if he was in agreement with the conditions, and Mr. Parker replied he was.

Mr. Blakeman inquired about the accessories beside the wall. Are they flood proof?

Mr. Parker said the Agency of Natural Resources submitted a letter to Clancy DeSmet detailing what they thought they should do in that case. They have to bring these items up off the ground, which is where they are located now, and bring them to a base flood level. Right now if there was a flood all of that stuff would be wiped out. The 100-year flood that Clancy and he talked about would require them to get those up to 26.1 feet. That's the elevation from sea level they would need to be located.

Mr. Blakeman said just to save them from some possible elements in town, have they had a historic preservation officer check this?

Mr. Parker said they had not. They just submitted the plan to the Design Review Committee and now it is before the DRB.

Mr. O'Connell asked if they had this application sitting on their desk this evening which differs in some regard to what is in the packet...

Mr. DeSmet said it is in response to the Design Review Committee's recommendations. It is a sample of the decking.

Mr. Parker said they wanted the stairs to run completely across. What they don't see on that drawing is if you look at the top left hand picture there will also be steel handrails. Actually, there will be three rails going down the stairs.

Mr. O'Connell said from the materials the DRB has, in terms of the design review the board has their summary form. Was there any discussion of the historic character issues which are talked about in the letter from the state environmental analyst from the River Management Program?

Mr. DeSmet said the reason that is in the letter from the Agency of Natural Resources is because all development that is not on the Historic Register is exempt from the substantial improvement calculations, which is why he included the nomination sheet to show the board that this is a historic structure. The rear of the building hasn't been preserved to the extent that it probably should have been. There was a previous deck there.

Mr. O'Connell asked if the Design Review Committee have any discussion about that specific issue. For other applications where the Design Review Committee has had this issue the minutes have been included which would give the DRB a sense of what the overriding issues were? He understands this is on the Consent Agenda, but even so the context is very important.

Mr. DeSmet said their discussion led us to where they are today with the application. They didn't have a problem with the rear of the building being changed. There was a deck there. The deck the applicant proposed was the approximate same size as the previous deck.

Mr. Blakeman asked if Eric Gilbertson was present at the Design Review Committee meeting.

Mr. DeSmet said he missed that meeting.

Mr. Lindley moved approval for the application at 28 State Street with the recommendations proposed by the Design Review Committee, with Mr. O'Connell seconding the motion. The motion was passed on a vote of 7 to 0.

II. 7 Langdon Street – CB-I/DCD/FP

Applicant: Andrew Brewer/Onion River Kids

Owner: Leeds Brewer

Sign.

Mr. Zalinger said the Design Review Committee recommended approval the application as proposed.

Mr. O'Connell asked where from the main store was this store located.

Mr. Brewer said there are Onion River, McGillicuddy's and the Shoe Store. Across the street from the Shoe Store is Onion River Kids.

Mr. Richardson moved approval of 7 Langdon Street as approved by the Design Review Committee, with Mr. Blakeman seconding the motion. The motion was approved on a vote of 7 to 0.

III. 9 School Street and 90 Main Street – DB-I/DCD/FP

Applicant: Bohler Engineering, LLC, Daniel S. Clarey

Owner: TD Bank

New signage.

Mr. DeSmet said Mr. Clarey had a problem getting here for tonight. The applicant said if the Board wasn't willing to accept the application as it is he is willing to come back.

Mr. Zalinger asked Mr. DeSmet to describe what the applicant is seeking. He asked if there were any changes of any of the signs they are seeking.

Mr. DeSmet said the ones at 90 Main Street are smaller because it doesn't say Banknorth any longer. The other signs are just another rebranding like they did last year. The biggest concern was not adding additional holes into the granite band at the Howard Bank.

Mr. Zalinger said it appears to him that they are adding words. TD Banknorth never said "Open 7 Days." He understands it is the size of the sign and not what is on it.

Mr. O'Connell said the DRB spent a good amount of time reviewing this the last time.

Mr. Zalinger said they struggled with the inclusion of descriptive language on what is really an identifying sign. Banks are not open 7 days, and there is no one there 7 days a week. The ATM machine is open 7 days a week.

Mr. O'Connell said in the interest of being consistent with the effort the Board spent on this a year ago. He is a little concerned about this being on the Consent Agenda, but he believes the Board should examine this in some detail.

Mr. Richardson said it also looks as if they are expanding the signage, particularly over each of the bays. We are running out of sign band space with what they are proposing to do. He is inclined to have them present.

Mr. Zalinger said they should invite the representative back.

Mr. Lindley said in the meantime we know the DRC had no problem with the application.

Mr. DeSmet said that was correct.

Mr. Hoff asked if the applicant been a sign representative or someone from the bank.

Mr. DeSmet replied it was someone from out of town. There is an engineer, a sign company and the bank involved.

Mr. Richardson said one of his concerns would be is to what extent they are filling up their sign band as opposed to what their limitations are. They seem to be taking advantage of the fact that they are a free standing building by plastering every side with signage.

Mr. DeSmet said he would ask.

Mr. Blakeman said the application is misleading because a lot of down country banks are open literally seven days a week.

Mr. Zalinger asked if there was a motion to continue the application until the next regularly scheduled meeting on April 20th.

Mr. O'Connell said he would also like to specify that this is two different applications – one for 9 School Street and the other is for 90 Main Street. Mr. O'Connell said he would move to table the application until the next meeting on April 20th, but he is making the motion to table two separate applications. Mr. Richardson seconded the motion. The motion to table the application for TD Bank was approved on a vote of 7 to 0.

Mr. Lindley asked Clancy if he could also give the DRB the minutes of the Design Review Committee for their next meeting regarding the application.

IV. AI-PUD Status Reinstatement – MDR/DCD

660 Elm Street

Applicant: Community College of Vermont

Owner: Vermont State Colleges – DBA as CCV

Interested Parties: Barbara Martin & Tim Donovan

Roger Cranse recused himself from participating in the discussion of this application.

Kenneth Matzner joined the DRB as a substitution for Roger Cranse.

Mr. Zalinger administered the oath to Barbara Martin & Tim Donovan, representatives of the Community College of Vermont.

Mr. DeSmet said the Community College of Vermont has purchased the property at 660 Elm Street. Woodbury College allowed their AI-PUD status to expire several years ago and CCV would like to reinstate that status so they can actually proceed as an AI-PUD. Currently, they are a non-conforming use and they cannot commence any development, and they would like to continue under this status.

Mr. O'Connell asked if they could tell him what the date was the AI-PUD expired.

Mr. DeSmet said it was three years ago and they need to renew every five years.

Mr. O'Connell said the AI-PUD was originally recommended by the Planning Commission to the Council who then acted. Does the ordinance allow the DRB to reinstate an expired zoning designation?

Mr. DeSmet replied yes. He said they aren't proposing any changes at this time. They just want to get their status into good standing and at such time they are ready they are going to proceed with a master plan and plans for development.

Mr. Zalinger said it is hard to proceed with an application to amend an AI-PUD if the AI-PUD has expired. It is probably hard to occupy the premises. Mr. Zalinger told Mr. Donovan that none of this happened on his watch.

Mr. Donovan said none of the expiration of the AI-PUD did.

Mr. Zalinger said it came to their attention when title examination was applied for.

Mr. Donovan said it came to their attention when they first began exploring the purchase of the building so they talked at that point with Gwen Hallsmith and Clancy in terms of what their options were. One of the options was to require Woodbury College to get it reinstated. The advice of the city at that point was that there is probably not much reason to do that. They are not planning any development changes at this point. The materials the Board has indicate that when their leases expire at the Vermont College of the Fine Arts they will be seeking to add some square footage at the 660 Elm Street location. They will go through the normal master plan process and do that in a very timely way.

Mr. Matzner said he is aware of the property about which he is speaking, and in that case the path does cross that property. It is an agreement with the city that people can cross. There are a number of private properties there which that path crosses and each of those owners has an agreement with the city to allow hikers to use the property.

Mr. Hoff said he went through the application pretty carefully and going through the general development standards there is not anything that jumped out at him. It seemed to be a fair change of ownership.

Mr. Matzner said he is aware that at the top of the property there is a trail that leads to the Stump Dump Road. It is a trail which parallels Elm Street. He doesn't know if that happens on city property or not.

Mr. Lindley said he believed they had discussion about that pathway when there was a condo proposed for up on the hill above the college. He thinks that is private land that is outside the AI-PUD. This property line doesn't run that far up the side of the mountain.

Mr. Zalinger asked if he was questioning whether this was an accurate statement. If there is a license that encumbers title to this property, then the terms of the license control or the terms of the easement controls and CCV acquired title subject to that encumbrance or not, but in either event the DRB has no jurisdiction over enforcement or rights under the easements. It isn't relative to the Board. None of it is material to reinstating the AI-PUD going forward.

Mr. Blakeman asked Mr. Donovan regarding parking during the Mountaineer Baseball games and other baseball games whether it would still be allowed.

Mr. Donovan said they would honor those agreements. CCV won't be having any classes on this location until they go through another master planning process. At this point they won't have the nighttime usage that they will have at some point on the property so there is no reason not to accommodate the Mountaineers.

Mr. O'Connell asked if their eventual intention is to have all of the Montpelier operations at that site.

Mr. Donovan replied that is correct.

Mr. O'Connell asked what the timing of the Vermont College lease was.

Barbara Martin said they have four and a half more years left on that lease.

Mr. Richardson said the tax parcel map attached shows that at least coming north along on the west side of the CCV property would appear to have excluded the possibility of a trail necessarily running through the CCV property due to what has been listed as abutting property #16, which is a house. His recollection is that the trail never gets close to a house.

Mr. Zalinger said under the ordinance the DRB is charged under Section 308 E, which states as follows: An AI-PUD expires five years from the date of final review by the DRB. Prior to expiration the applicant must apply to have a new AI-PUD approved in accordance with Section 308 D(2). The application must reflect all changes since the original was approved and all changes planned over the next five years. Number 3 states that if the AI-PUD expires the institution may continue as a nonconforming use and shall continue to be bound by the previous AI-PUD approval. However, no development may occur at the site until a new AI-PUD or planned development is approved or status is reinstated.

Mr. Richardson moved approval for AI-PUD reinstatement at 660 Elm Street to the Community College of Vermont, with Mr. O'Connell seconding the motion. The motion was approved on a vote of 7 to 0.

Adjournment:

Upon motion to adjourn by Mr. O'Connell and Mr. Blakeman, the Development Review Board adjourned.

Respectfully submitted,

Clancy DeSmet
Planning and Zoning Administrator